

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MATTHEW VANDERHOOP, Plaintiff, v. WILMINGTON SAVINGS FUND SOCIETY FSB, D/B/A CHRISTIANA TRUST, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR BCAT 2014-10TT, Defendant.	Civil Action No. 18-11924-FDS
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MOTION OF WILMINGTON SAVINGS TO DISMISS COMPLAINT

IN HIS FIVE-PARAGRAPH COMPLAINT, Matthew Vanderhoop (the “Plaintiff”) appears to allege that defendant, Wilmington Savings, as defined below, did not have the right to enforce the Plaintiff’s promissory note. When Wilmington Savings commenced a foreclosure because the Plaintiff’s loan was years in arrears, Wilmington Savings – the Plaintiff seems to allege – did not hold the related note. However, the Plaintiff makes no claim against Wilmington Savings; further, the Plaintiff is asking this Court to review the decision of the Massachusetts Land Court, a review barred by the *Rooker-Feldman* doctrine. For these reasons, Wilmington Savings Fund Society FSB, d/b/a Christiana Trust, not in its individual capacity, but solely as Trustee for BCAT 2014-10TT (“Wilmington Savings”) moves pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss Plaintiff’s complaint. In support of this motion, Wilmington Savings submits contemporaneously herewith their Memorandum of Law in Support of Motion of Wilmington Savings to Dismiss Complaint.

WHEREFORE, Wilmington Savings respectfully requests that this Court enter an order:

1. Dismissing the G.L. c 244, § 35B claim as to Wilmington Savings;
2. Denying Plaintiff's request for a Temporary Restraining Order;
3. Denying Plaintiff's request for a Preliminary Injunction;
4. Denying Plaintiff's request for a Permanent Injunction; and
5. Granting Wilmington Savings such other and further relief as is just and proper.

Respectfully submitted,

WILMINGTON SAVINGS FUND SOCIETY
FSB, D/B/A CHRISTIANA TRUST, NOT IN
ITS INDIVIDUAL CAPACITY, BUT
SOLELY AS TRUSTEE FOR BCAT 2014-
10TT,

By its attorneys,

/s/ Aaron A. Fredericks, Esq.

Richard C. Demerle, Esq. (BBO#688412)

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DATE: October 15, 2018

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DISTRICT OF MASSACHUSETTS

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CERTIFICATE OF SERVICE

I, Aaron A. Fredericks, Esq. of Sassoon & Cymrot, LLP, hereby certify that I have this 15th day of October 2018 served on behalf of Wilmington Savings Fund Society FSB, d/b/a Christiana Trust, not in its individual capacity, but solely as Trustee for BCAT 2014-10TT this Motion of Wilmington Savings to Dismiss Complaint and this Certificate of Service by causing copies hereof to be sent by electronic mail via the electronic court filing system (ECF) and by first-class U.S. mail (M) to all parties not appearing electronically but entitled to service per the Federal Rules of Civil Procedure.

Deborrah M. Dorman, Esq.
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/s/ Aaron A. Fredericks
Aaron A. Fredericks, Esq.